

ARKANSAS SUPREME COURT

No. 06-828

EUGENE JAMES HALL
Appellant

v.

LARRY NORRIS, DIRECTOR,
ARKANSAS DEPARTMENT OF
CORRECTION
Appellee

Opinion Delivered March 15, 2007

PRO SE APPEAL FROM THE CIRCUIT
COURT OF JEFFERSON COUNTY, CV
2006-209, HON. ROBERT H. WYATT,
JR., JUDGE

AFFIRMED.

PER CURIAM

On September 16, 1982, judgment was entered reflecting that appellant Eugene James Hall entered a plea of guilty to murder in the first degree, which was accepted by the court, and was sentenced to life imprisonment. On October 6, 1982, an amended judgment was entered nunc pro tunc that specifically stated that the court found appellant to be guilty of first-degree murder.

Appellant subsequently sought to vacate the judgment of conviction pursuant to Ark. R. Crim. P. 37.1 on the grounds that he was denied effective assistance of counsel in the plea proceeding and that the state failed to live up to promises that he relied on in his decision to enter a guilty plea. The trial court denied the petition, and we affirmed. *Hall v. State*, 285 Ark. 38, 684 S.W.2d 261 (1985).

In 2006, appellant, proceeding pro se, filed a petition for writ of habeas corpus in the county in which he was incarcerated. The petition was denied, and appellant brings this appeal from the

order.

In his petition, appellant contended that he was entitled to a writ of habeas corpus on the ground that the trial court lacked jurisdiction to enter the judgment in his case because the judge at his guilty plea hearing failed to orally state on the record that he had been found guilty of first-degree murder. He contended that the amended judgment entered nunc pro tunc was illegal on its face because the judge failed to pronounce when the plea was entered that appellant was guilty. The circuit court denied the petition on the ground that the allegation did not demonstrate that the trial court lacked jurisdiction or that the commitment was invalid on its face, and thus appellant had failed to state a basis for issuance of the writ.

It is well settled that the burden is on the petitioner in a habeas corpus petition under Ark. Code Ann. § 16-112-103 (1987) to establish that the trial court lacked jurisdiction or that the commitment was invalid on its face; otherwise, there is no basis for a finding that a writ of habeas corpus should issue. *Young v. Norris*, 365 Ark. 219, ___ S.W.3d ___ (2006) (per curiam). Appellant's claim did not establish without going behind the face of the judgment that the court failed to speak certain words when the plea of guilty was accepted. To demonstrate that the writ should issue, a petitioner must plead either the facial invalidity or the lack of jurisdiction and make a "showing by affidavit or other evidence, [of] probable cause to believe" he is illegally detained. *Id.* at 221 ___ S.W. 3d at ___; *see also Wallace v. Willock*, 301 Ark. 69, 781 S.W.2d 484 (1989).

Here, the circuit court clearly had jurisdiction over both the appellant and the subject matter. Appellant's claim failed to establish that the court lost jurisdiction or that the judgment was facially invalid. As appellant failed to state a valid challenge to the trial court's subject-matter jurisdiction or authority to convict and sentence him and failed to show that the commitment rendered in his case

was facially invalid, the court did not err when it declined to issue a writ of habeas corpus.

Accordingly, the court's order is affirmed.

Affirmed.